

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RAYLANDO D. NEWBY,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

SIDEKE FOGO,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/20/2023

23-CV-4780 (BCM)

23-CV-9067 (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

For the reasons that follow, the two actions captioned above shall be consolidated into the first-filed docket.

Both actions arise out of a motor vehicle collision that occurred on January 13, 2022, between a United States Postal Service vehicle driven by Lori M. Mays and a private vehicle driven by Raylando D. Newby in which Sideke Fogo was a passenger. On June 7, 2023, plaintiff Newby filed his complaint against the United States, pursuant to the Federal Tort Claims Act (FTCA), in this District. On August 9, 2023, plaintiff Fogo filed his complaint against the United States, pursuant to the FTCA, in the Eastern District of New York. On October 10, 2023, Fogo's complaint was transferred to this District on consent. On October 19, 2023, the parties jointly requested that the Court consolidate these actions. (Dkt. 30.)<sup>1</sup>

Where, as here, two actions involve multiple "common issue[s] of law or fact, "the district court may: "(1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate

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<sup>1</sup> All citations to "Dkt. \_\_\_" are to the docket in No. 23-CV-4780.

the actions; or (3) issue any other orders to avoid unnecessary cost or delay." Fed. R. Civ. P. 42(a). Consolidation of cases with common questions of law or fact is favored "to avoid unnecessary costs or delay," *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284-85 (2d Cir. 1990), and to "expedite trial and eliminate unnecessary repetition and confusion." *Devlin v. Transp. Commc'n Int'l Union*, 175 F.3d 121, 130 (2d Cir. 1999) (internal quotation marks and citations omitted). "The trial court has broad discretion to determine whether consolidation is appropriate." *Johnson*, 899 F.2d at 1284).

Given that both cases arise out of the same motor vehicle collision; that both plaintiffs were in the same car and have sued the same defendant under the same statute; and that the parties have requested consolidation, it is hereby ORDERED that these cases be CONSOLIDATED for all purposes into the first-filed case, which is No. 23-CV-4780. Plaintiffs may (but are not required to) file a consolidated complaint no later than **November 30, 2023**. If they proceed on separate complaints, future filings shall bear both captions (as shown above), but shall display only the consolidated docket number, that is, No. 23-CV-4780. In either event, this Order will be the last paper docketed in No. 23-CV-9067, which will be marked closed.

The initial case management conference previously scheduled for November 7, 2023, in No. 23-CV-4780 is ADJOURNED to **January 11, 2024, at 11:00 a.m.** All three parties in the consolidated actions shall submit their Pre-Conference Statement (*see* Dkt. 29 at 2-3), no later than **January 4, 2023**.

For the reasons set forth above, the Clerk of Court is respectfully directed to CONSOLIDATE these actions and to mark No. 23-CV-9067 as CLOSED.

Dated: New York, New York  
October 20, 2023

**SO ORDERED.**

A handwritten signature in blue ink, appearing to read 'Barbara Moses', is written over a horizontal line.

**BARBARA MOSES**  
**United States Magistrate Judge**